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3 UNITED STATES DISTRICT COURT  
4 NORTHERN DISTRICT OF CALIFORNIA  
5 SAN JOSE DIVISION  
6

7 FITNESS ANYWHERE LLC,

8 Plaintiff,

9 v.

10 WOSS ENTERPRISES LLC,

11 Defendant.

Case No. [14-cv-01725-BLF](#)

**ORDER GRANTING UNOPPOSED  
MOTION TO WITHDRAW AS  
COUNSEL OF RECORD FOR  
DEFENDANT; VACATING  
DECEMBER 13, 2018 HEARING**

[Re: ECF 274]

12  
13 Before the Court is attorneys H. Michael Brucker and Steven M. Kipperman's  
14 ("Movants") motion to withdraw as counsel for Defendant Woss Enterprises LLC ("Woss")  
15 pursuant to Civil Local Rule 11-5. *See* ECF 274 ("Mot."). The time to oppose the motion has  
16 passed, and no party has filed an opposition. The Court finds that the motion is appropriate for  
17 submission without oral argument. *See* Civ. L.R. 7-1(b). Accordingly, the hearing set for  
18 December 13, 2018 is VACATED. For the reasons that follow, the motion is GRANTED.

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20 The decision to grant or deny an attorney's motion to withdraw as counsel is committed to  
21 the sound discretion of the trial court. *j2 Glob. Commc'ns, Inc. v. Blue Jay, Inc.*, No. C 08-  
22 4254PJH, 2009 WL 464768, at \*1 (N.D. Cal. Feb. 24, 2009) (citing *LaGrand v. Stewart*, 133 F.3d  
23 1253, 1269 (9th Cir.)). In this district, the California Rules of Professional Conduct govern  
24 withdrawal of counsel. *See Nehad v. Mukasey*, 535 F.3d 962, 970 (9th Cir. 2008). Moreover,  
25 under Civil Local Rule 11-5, "[c]ounsel may not withdraw from an action unless relieved by order  
26 of Court after written notice has been given reasonably in advance to the client and to all other  
27 parties who have appeared in the case." Where "withdrawal of an attorney is not accompanied by  
28 simultaneous appearance of substitute counsel or agreement of the party to appear pro se, leave to

1 withdraw may be subject to the condition that papers may continue to be served on counsel for  
2 forwarding purposes.” Civ. L.R. 11-5(b).

3 Woss filed for Chapter 7 bankruptcy on May 18, 2017, placing Woss in the hands of  
4 Bankruptcy Trustee Sarah Little. *See* ECF 275 ¶ 2. The Trustee has been nonresponsive to  
5 Movants since July 2017, and Movants are informed that Woss cannot pay Movants either for  
6 their past services or for any services moving forward. *Id.* ¶¶ 3–4. Movants provided Trustee  
7 notice of this motion on June 27, 2018, and the Trustee failed to oppose the motion. *Id.* ¶ 6.  
8 Given the Trustee’s unwillingness to communicate with or pay Movants, the Court finds that  
9 withdrawal is appropriate.

10 Counsel shall continue to receive papers for service and shall forward such papers to  
11 Defendant Woss as agreed in the motion.

12 Defendant Woss is advised that it may not appear in this action or file any papers except  
13 through counsel of record.

14 Accordingly, H. Michael Brucker and Steven M. Kipperman’s motion to withdraw as  
15 counsel for Defendant is GRANTED.

16  
17 **IT IS SO ORDERED.**

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19 Dated: October 9, 2018

20   
21 BETH LABSON FREEMAN  
22 United States District Judge  
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